

Underground Storage Tank (UST) Program

State Fund Fact Sheet: FLORIDA

November 2010

Name of Fund	Inland Protection Trust Fund (exists under the Petroleum Cleanup Program)
State Fund Website	http://www.dep.state.fl.us/waste/categories/pcp/default.htm
Administering Agency	Florida Department of Environmental Protection
Statute	Florida 2010 Statutes, Chapter 376: Pollutant Discharge Prevention and Removal, Sections 206.9935, 376.30, 376.305, 376.30702, 376.3071, 376.30711, 376.30713, 376.30714, 376.30715, 376.30716, 376.3072, 376.3073, and 376.3075. (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0376/0376ContentsIndex.html&StatuteYear=2010&Title=-%3E2010-%3EChapter%20376)
Regulatory Citation	Florida Administrative Code Chapters 62-761, 62-762, 62-769, 62-770, 62-771, and 62-777 (http://www.dep.state.fl.us/waste/quick_topics/rules/default.htm)
Sites Covered	2010: 17,466 Facilities (ASTSWMO State Fund Survey 2010)
Date Established	July 1, 1986
Sunset Provisions	As of April 2011, there are no sunset provisions for the Inland Protection Trust Fund or expenditures from the fund on sites previously determined to be eligible for State cleanup funding assistance. There are four primary cleanup assistance eligibility programs, all of which are currently closed to new sites and discharges. These eligibility programs and their eligibility windows are; Early Detection Incentive Program-EDI (7/1/86 - 12/31/88), Petroleum Liability and Restoration Insurance Program-PLRIP (1/1/88 - 12/31/98), Abandoned Tank Restoration Program-ATRP (6/1/90 - 6/30/96), and Petroleum Cleanup Participation Program-PCPP (7/1/86 - 12/31/98, for contamination reported prior to 1995).
Fund Framework	The Inland Protection Trust Fund is intended to serve as a repository for funds which will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect the public health, safety, and welfare and to minimize environmental damage. Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for eligible costs (F.S. 376.3071(2)-(4)). Initially, State funded cleanup assistance was available through a reimbursement process in first come-first served order for claims submitted by the Person Responsible for Conducting Site Rehabilitation or, in certain cases, by State Cleanup contractors under direct contract with the department in priority order. In 1995 and 1996 statutory changes phased out the Reimbursement Program, from that point forward all State-funded cleanup assistance is provided in priority order within available budget under the Preapproval Program in which the scope of work and costs for site rehabilitation are preapproved in work orders and task assignments with direct payment to either State cleanup contractors or independent qualified contractors designated by the site owner/responsible party upon satisfactory completion of specified tasks.
Funding Source	<p>The Tax for Inland Protection, an excise tax per barrel of pollutant produced in or imported into this state, varies based on fund balance (F.S. 206.9935(3)(b)):</p> <ul style="list-style-type: none"> ✓ Thirty cents if the unobligated balance of the fund is between \$100 million and \$150 million. ✓ Sixty cents if the unobligated balance of the fund is above \$50 million, but below \$100 million. ✓ Eighty cents if the unobligated balance of the fund is \$50 million or less. ✓ If the unobligated balance of the fund exceeds \$150 million, the tax shall be discontinued until such time as the unobligated balance of the fund reaches \$100 million. <p>Tax shall be paid or remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, diesel fuel, aviation fuel, or other pollutants. All penalties, judgments, recoveries, reimbursements, and other fees and charges are credited to the fund (F.S. 376.3071(6)).</p> <p>Under F.A.C. 62-761.400(2) and 62-762.401(2), owner/operators of USTs and ASTs must pay a registration of \$50 and an annual renewal fee of \$25. Bulk facilities require a larger renewal fee based on storage capacity.</p>

Underground Storage Tank (UST) Program

State Fund Fact Sheet: FLORIDA

November 2010

Funding Floor or Ceiling	Fund floor: \$50 million; Fund ceiling: \$150 million (ASTSWMO State Fund Survey 2009)
Reimbursement/ Coverage Limits	Under F.S. 376.3071(12), no site remediation costs are eligible for reimbursement after August 1, 1996. However, under the current Preapproval Program funding limitations vary considerably. The two earliest eligibility programs (EDI & ATRP) do not have a funding limit, the PLRIP Program has funding limits ranging from \$300K to \$1.2M per incident depending on the date of reported discharge as well as a \$2M annual aggregate limit per facility, and the PCPP Program has a \$400K funding limit.
Type of costs covered	<p>The Fund covers activities that are integral to site rehabilitation associated with incidents of inland contamination related to the storage of petroleum or petroleum products that may pose a threat to the environment or the public health, safety, or welfare, including but not limited to:</p> <ul style="list-style-type: none"> ✓ Prompt investigation and assessment of contamination sites, expeditious restoration or replacement of potable water supplies, and rehabilitation of contamination sites, which shall consist of cleanup of affected soil, groundwater, and inland surface waters ✓ Maintenance and monitoring of contamination sites, as well as inspection and supervision of activities ✓ Removal and replacement of petroleum storage systems, exclusive of costs of any tank, piping, dispensing unit, or related hardware, if soil removal is preapproved as a component of site rehabilitation and requires removal of the tank <p>For a complete list of covered costs, see F.S. 376.3071(4). Costs to confirm a release are generally not considered "corrective action costs" and are not covered by the fund.</p>
Coverage Limitations	Under F.S. 376-3071(13)(g), the Fund does not cover sites that were active facilities when owned or operated by the Federal Government or sites that are identified by the U.S. EPA to be on, or which qualify for listing on, the National Priorities List under Superfund. Unless specifically authorized by statute, the department may not authorize costs which are associated with, but are not integral to, site rehabilitation.
Cleanup Prioritization	<p>Under F.S. 376.3071(5), the department shall adopt rules (see Chapter 62-771, F.A.C.) to establish priorities based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but need not be limited to:</p> <ul style="list-style-type: none"> ✓ The degree to which human health, safety, or welfare may be affected by exposure to the contamination; ✓ The size of the population or area affected by the contamination; ✓ The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and ✓ The effect of the contamination on the environment. <p>Under the same statute, the department has discretion in modifying the priority status of sites where conditions indicate a risk of exposure, otherwise referred within the program as Imminent Threat sites.</p>

Underground Storage Tank (UST) Program

State Fund Fact Sheet: FLORIDA

November 2010

Amount of Deductible	Deductibles and cost share requirements vary by eligibility program. The EDI program has no deductible or cost share, the PLRIP Program has baseline deductibles ranging from \$500 to \$10,000 per incident depending on the date reported and supplemental deductibles ranging from \$5,000 to \$25,000 for failure to meet specified compliance requirements, the ATRP Program has a \$500 deductible, and the PCPP Program has a 25% cost share for all costs after the responsible party pays for a limited contamination assessment.
Eligibility Limitations	Tank Type. Petroleum and abandoned petroleum underground storage tanks, as well as petroleum aboveground storage tanks covered (ASTSWMO State Fund Survey 2010). Also see definitions in F.A.C. sections 62-761-200 and 62-762.201 and F.S. 376.301.
	Tank "Owner" means any person owning a facility. Tank "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement (F.S. 376.301(26)-(27)).
	Extent of Regulatory Compliance. With the exception of sites in the PLRIP Program that can be eligible with corrected compliance violations subject to a supplemental deductible, the owner/operator must be in compliance with all requirements to be determined eligible to receive disbursement from the fund. Requirements Include: (1) Registration, registration fee, and financial responsibility (F.A.C. 62-761.400); (2) Performance standards (F.A.C. 62-761.500 and 761.510); (3) Releases detection standards (F.A.C. 62-761.600); (4) Recordkeeping (F.A.C. 62-761.710); (5) Reporting and notification (F.A.C. 62-761.450); and (6) Incident and discharge response (F.A.C. 62-761.820).
	Date of Release. See Fund sunset provisions.
Preapproval Application Process	Yes, the department must preapprove the scope of work and costs for cleanup prior to implementation. Under F.S. 376.30711(1), (a) Contamination site cleanups should be conducted on a preapproved basis with emphasis on addressing first the sites which pose the greatest threat to human health and the environment, within the availability of funds in the Inland Protection Trust Fund, recognizing that source removal, wherever it is technologically feasible and cost-effective shall be considered to protect public health and safety, water resources, and the environment; and (b) After March 29, 1995, only persons who have received prior written approval from the department of the scope of work and costs may continue site rehabilitation work.
Cost Schedule	Under F.S. 376.3071(2) the department is required to adopt rules and procedures to eliminate and reduce duplication of effort, paperwork and micromanagement, adopt and implement uniform and standardized forms for preapproval and reporting, and adopt uniform scopes of work with template labor and equipment costs. The Preapproval Program SOP is available for download from the Petroleum Cleanup program web site and includes standardized unit rates for commonly used personnel, equipment, drilling and analytical tests, as well as templated costs for common field tasks and technical reports.
Claims Payment Provisions	Since 1996, the department no longer has a Reimbursement Program. However, under the Preapproval Program invoices for preapproved, completed and approved tasks and deliverables are payable directly to the preapproval contractor within 45 days of receipt. Payments exceeding this timeframe are subject to interest as for any other State contract.

This document is intended to provide guidance to EPA staff. It does not create any legally binding requirements on EPA, States, or the regulated community, and does not create any right or benefit, substantive or procedural. This document is not a complete representation of the Underground Storage Tank Program or of EPA's regulations and views, and may not necessarily reflect the current position of EPA.

Underground Storage Tank (UST) Program

State Fund Fact Sheet: FLORIDA

November 2010

Available Funds
Limitation

Preapproval of costs are subject to sufficient availability funds in the Inland Protection Trust Fund and current year Legislative appropriation. Upon preapproval the funds are encumbered and set aside solely for payment of the preapproved work, subject to reduction approved changes in scope and cost.

DRAFT